IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

APPEAL FROM ORDER (St) No.12193 of 2006

Shri Kacchi Visha Oswal Jain
Sewa Samaj, Kurla .. Appellant

vs

Municipal Corporation of Gr.Mumbai .. Respondent

Mr.V.A.Thorat, Senior Counsel i/b Mr.S.K.Dubey for Appellant

Mr.J.J.Xavier, Advocate for Respondent

CORAM : K.J. ROHEE, J.

DATE : 11TH MAY, 2006.

p.c.

1. Heard Mr. V.A.Thorat, Senior counsel for the appellant and Mr.J.J.Xavier, Advocate for the respondent.

2. Notice under section 351 of the Mumbai Municipal Corporation Act was issued to the appellant by the respondent on 4/6/2005. According to the appellant, he was collecting documents to show that the structure was not unauthorised. In the meanwhile, because of huge floods the concerned record was destroyed. However, on 15/12/2005 the appellant received another communication from the respondent stating that since he failed to show

cause against the earlier notice the construction should be removed within 15 days or it would be demolished by the authorities concerned.

3. According to the appellant, it wants some time to collect necessary documents in order to establish that the construction was not unauthorised. In view of this submission, it would be in the interest of justice to quash and set aside the communication dated 15/12/2005. Hence, I pass the following order : .

. (a) The communication dated 15/12/205 is quashed and set aside;

(b) appellant shall move the respondent within six weeks for showing cause to the notice dated 4/6/2005. The respondent shall afford opportunity of hearing to the appellant and shall decide the representation as expeditiously as possible with no order as to costs;

(c) In view of the above order, the appellant is directed to withdraw suit No.2192 of 2006 filed before the City Civil Court. Till the

respondent decides the representation of the appellant, the respondent shall not take any action in poursuance of the notice dated 4/6/2005. In case, the decision goes against the appellant, it would be protected for six weeks from today. It is needless to say that the appellant is at liberty to challenge the notice dated 4/6/2005 after the order of the respondent.

(K.J. ROHEE J.)